

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ERIC JON TUELL,

Petitioner,

VS.

RICK THALER,

Respondent.

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CIVIL ACTION NO. C-09-359

**ORDER ADOPTING MEMORANDUM AND
RECOMMENDATION TO GRANT
RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

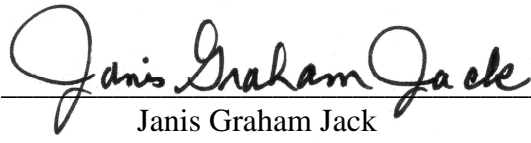
On June 21, 2009, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that respondent's motion for summary judgment, (D.E. 15), be granted and the petition, (D.E. 1), be dismissed; and further, that a certificate of appealability be denied. On July 9, 2010, petitioner filed Objections to the Magistrate's Recommendations.

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and petitioner's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, it is ORDERED that respondent's motion for summary judgment is granted and the petition is dismissed. Certificate of appealability is denied.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 20th day of September, 2010.



Janis Graham Jack
United States District Judge